

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DAMIQUE FENNELL, :

Petitioner, :

-against- :

**ORDER**

TIMOTHY MCCARTHY, Superintendent :  
of Auburn Correctional Facility, :

20-CV-3764 (GHW) (KNF)

Respondent. :

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KEVIN NATHANIEL FOX  
UNITED STATES MAGISTRATE JUDGE

The petitioner, proceeding pro se, filed a petition under 28 U.S.C. § 2254 for writ of habeas corpus. On December 10, 2020, the petitioner requested that the petition be stayed and held in abeyance so he can exhaust his ineffective assistance of appellate counsel claim based on five grounds. Docket Entry No. 18. The respondent opposed the request, asserting that “the first four of the five claims are worded so vaguely that it is difficult if not impossible to determine their merits.” Docket Entry Nos. 21 and 22. Thereafter, the Court vacated its order denying the petitioner’s request and determined to consider the petitioner’s February 14, 2021 submission, not previously considered in determining the request for a stay and describing the grounds for his new claim. Docket Entry No. 36. To provide an opportunity for the respondent to address the plaintiff’s February 14, 2021 submission, on or before March 15, 2021, the respondent may serve

and file his sur-reply.

**The Clerk of Court is directed to mail this Order to the petitioner.**

Dated: New York, New York  
March 8, 2021

SO ORDERED:

  
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KEVIN NATHANIEL FOX  
UNITED STATES MAGISTRATE JUDGE